



STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

P.O. Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300

July 9, 2004

REGISTERED MAIL
RB 252 878 465 US

Dennis N. Morr, Jr.
TransAlta Centralia Mining, LLC
913 Big Hanaford Road
Centralia, WA 98531

Dear Mr. Morr:


RE: Water Quality Certification #1536 for Nationwide Permit 21 Corps Reference Number 200300461 to mine the upper portion and construct a sedimentation pond (Pond 46 Sedimentation System) within the lower portion of an unnamed tributary to Mitchell Creek tributary to the North Fork of the Newaukum River in Lewis County, Washington

The Nationwide Permit 21 issued by the U.S. Army Corps of Engineers on July 2, 2004 for proposed work in or near an unnamed tributary to Mitchell Creek, Lewis County has been reviewed. On behalf of the State of Washington, we certify that the work proposed in the Department of Army Nationwide Permit 21 and TransAlta's request for 401 water quality certification complies with applicable provisions of Sections 301, 302, 303, 306 and 307 of the Clean Water Act, as amended, and other appropriate requirements of State law. This letter also serves as the State response to the Corps of Engineers.

- This certification concurrence is subject to the conditions contained in the enclosed Order.

If you have any questions, please contact Jo Sohneronne at (360) 407-6926. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,



Perry J Lund, Unit Supervisor
Southwest Regional Office
Shorelands and Environmental Assistance Program

PJL:JS:dn
Enclosure

cc: Caren Crandell, U.S. Army Corps of Engineers, Seattle District
Steve Manlow, WSDFW Region 5
Craig Swanson, Lewis County Department of Community Development
Brad Murphy, Ecology, SWRO/SEA
Janet Boyd, Ecology, SWRO/WQ

**IN THE MATTER OF GRANTING)
A WATER QUALITY)
CERTIFICATION TO)**

TransAlta Centralia Mining, LLC
in accordance with 33 U.S.C. 1341
FWPCA § 401, RCW 90.48.260
and WAC 173-201A

ORDER #1536

Corps Reference No. 200300461

-) To mine the upper portion and construct a
-) sedimentation pond system (Pond 46) within the
-) lower portion of an unnamed tributary to Mitchell
-) Creek tributary to the North Fork of the Newaukum
-) River in Lewis County, Washington

TO: TransAlta Centralia Mining, LLC
913 Big Hanaford Road
Centralia, WA 98531

On April 28, 2003, a request for water quality certification from the State of Washington was submitted for the above-referenced project pursuant to the provisions of 33 U.S.C. 1341 (FWPCA § 401). The U.S. Army Corps of Engineers authorized the project under Nationwide 21 on July 2, 2004.

The proposed project entails excavation and fill of 8.7 acres of waters of the U.S. The proposed project is located adjacent to the an unnamed tributary to Mitchell Creek, tributary to the North Fork Newaukum River in the W ¼ of Section 13 and the E ½ of Section 14, Township 14 North, Range 1 West, Lewis County. The proposed project would involve mining coal and constructing a sedimentation pond system (Pond 46 System) at an open pit coal mine. As mitigation for the project impacts, the wetland functions of an existing coal fines refuse pond (Pond 3B) will be enhanced to promote a mosaic of diverse wetland plant and animal communities consisting of palustrine emergent, scrub/shrub, and forested wetland classes.

For purposes of this Order, the term "Applicant" shall mean the TransAlta Centralia Mining LLC and its agents, assigns, and contractors.

AUTHORITIES:

In exercising authority under 33 U.S.C. 1341 and RCW 90.48.260, Ecology has investigated this application pursuant to the following:

1. Conformance with applicable water quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. Sections 1311, 1312, 1313, 1316, and 1317 (FWPCA Sections 301, 302, 303, 306, and 307);
2. Conformance with the state water quality standards as provided for in Chapter 173-201A WAC authorized by 33 U.S.C. 1313 and by Chapter 90.48 RCW, and with other appropriate requirements of state law; and,
3. Conformance with the provision of using all known, available and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010.

WATER QUALITY CERTIFICATION CONDITIONS:

In view of the foregoing and in accordance with 33 U.S.C. 1341, 90.48.260 RCW and Chapter 173-201A WAC, certification is granted to TransAlta Centralia Mining LLC subject to the following conditions:

A. Water Quality Conditions:

1. This unnamed tributary to Mitchell Creek, tributary to the north Fork Newaukum River is a Class A water of the state. Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (173-201A WAC) or sediment quality standards (173-204 WAC). Water quality criteria contained in 173-201A-030(1) WAC and 173-201A-040 WAC shall apply to this project, unless otherwise authorized by Ecology. This Order does not authorize temporary exceedances of water quality standards beyond the limits established in 173-201A-110(3). Furthermore, nothing in this certification shall absolve the Applicant from liability for contamination and any subsequent cleanup of surface waters or sediments occurring as a result of project construction or operations.
2. Toxic conditions resulting in distressed fish (including dissolved oxygen levels below 8.0mg/L or pH level outside the range 6.5 to 8.5) are not allowed. If these conditions exist, construction shall cease immediately and the applicant shall comply with condition H.2 of this Order.

B. Water Quality Monitoring Conditions:

1. The applicant shall submit a Water Quality Monitoring plan and a Temporary Erosion and Sediment Control (TESC) Plan for review 30 days prior to beginning construction. These plans shall include the following information:
 - a. Water Quality Monitoring Plan
 - Name and phone number of person responsible for monitoring;
 - map of sample locations (background, 300 feet and 500 feet downstream);
 - parameter(s) to be monitored;
 - sample method; and,
 - sample frequency.
 - b. TESC Plan
 - Name and phone number of person responsible for implementing plan;
 - best management practices (BMP's) anticipated to be implemented;
 - frequency of BMP inspections; and,
 - contingency plan in the event of adverse weather condition or other foreseeable undesirable conditions.

2. If the results of the monitoring shows that the water quality standards or project performance stands are not being met additional monitoring and mitigation maybe required.
3. The applicant shall provide written documentation that they have obtained a Construction Stormwater General Permit from the Department of Ecology prior to beginning construction.
4. Pond 46 System:
 - Prior to beginning construction of the Pond 46 system, the applicant shall provide preconstruction photo documentation of site conditions at each location where temporary culverts or diversions will be installed.
 - Site conditions will be photo-documented within 24 hours after installation of each culvert or diversion structure. Photo documentation of all in-water work and appropriate narrative descriptions shall be submitted to the Federal Permit Coordinator Department of Ecology SWRO, PO Box 47775, Olympia, WA 98504-7775 every two weeks during construction of the Pond 46 System.
 - Within 60 days of completion of the Pond 46 system construction, the applicant shall provide as-built post-construction photos documenting site restoration and stabilization of the areas previously recorded.

C. Mitigation and/or Restoration Conditions:

1. All earth areas which have been exposed or disturbed during construction of the Pond 46 system and ditches 76 and 77 are to be graded to a stable grade, seeded with a suitable erosion control seed mix which includes native grasses and forbs, and protected from erosion with straw mulch or equivalent within seven (7) days of the project completion.
2. Project mitigation shall be constructed and maintained as described in *TransAlta Centralia Mining LLC Revised Pond 3B Mitigation and Monitoring Plan* (Mitigation and Monitoring Plan) approved by Brad Murphy, Ecology SWRO on December 1, 2003.
3. Success criteria will be as described in the Mitigation and Monitoring Plan in section 8.0 Contingency Planning (page 37) and in Table 4 (page 15), Table 5 (page 23), and Table 9 (page 32).
4. Any proposed changes to the mitigation or contingency measures must be submitted to Ecology for review and approval at least 30 days prior to proposed implementation.

D. Wetland Monitoring Conditions:

1. Wetland mitigation monitoring shall be completed as described in the *TransAlta Centralia Mining LLC Revised Pond 3B Mitigation and Monitoring Plan* prepared by Jones & Stokes, dated October 2003 (Mitigation and Monitoring Plan).
2. Wetland mitigation monitoring reports shall be submitted to the Federal Permit

Coordinator Department of Ecology SWRO, PO Box 47775, Olympia, WA 98504-7775
no later than December 31 of the year in which it is prepared.

3. Reports will comply with the requirements described in sections 7.0 and 7.1 of and the schedule described in Table 8 of the Mitigation and Monitoring Plan (page 31).
4. Any proposed changes to the mitigation or contingency measures must be submitted to Ecology for review and approval at least 30 days prior to proposed implementation.

E. Construction Conditions:

1. The project shall be clearly marked/staked prior to construction. Clearing limits, travel corridors and stockpile sites shall be clearly marked. Sensitive areas to be protected from disturbance shall be delineated so as to be clearly visible to equipment operators. Equipment shall enter and operate only within the delineated clearing limits, corridors and stockpile areas.
2. Work in or near the waterbody shall be done so as to minimize turbidity, erosion, and other water quality impacts.
3. Erosion control devices (e.g., filter fences, hay bales, etc.) suitable to prevent exceedance of state water quality standards shall be in place before starting project construction and shall be maintained throughout construction.
4. Periodic inspection and maintenance of all erosion control structures shall be conducted no less than every 7 days from the start of the project to site stabilization. Additional inspections shall be conducted prior to and after expected rainfall events to ensure erosion control measures are in working conditions. Any damaged structures shall be immediately repaired. If it is determined at the inspection that additional measures are needed to control stormwater and erosion, they shall be implemented immediately.
5. A contingency plan shall be developed detailing actions to be made in the event of adverse weather conditions or other foreseeable undesirable conditions.
6. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working areas shall not be discharged into state waters. The applicant shall setup a designated area for washing down equipment.
7. Machinery and equipment used during construction shall be serviced, fueled, and maintained on uplands in order to prevent contamination to surface waters.
8. A temporary bypass to divert flow around the work area shall be in place prior to construction of the sedimentation ponds or initiation of other work in the wetted perimeter.
 - a. The diversion ditches shall be of sufficient size to pass all flows and debris for

the duration of the project.

- b. The diversion ditches and outlet structures shall be lined appropriately to prevent scour, erosion, and downstream sedimentation.
9. Turbid water generated from construction activities, including turbid dewatering water, shall not be discharge directly to waters of the state. Turbid water shall be pumped to an upland area to allow the turbid water to settle. The discharge from the upland areas shall meet the water quality criteria at the point of discharge into Mitchell Creek and its unnamed Tributary.
10. Dewatering water that is not turbid may be discharged directly to the Mitchell provided that: a) waste water containing raw concrete or other harmful material has been in contact with the water to be dewatered and b) the water will meet all the water quality standards at the point of discharge.
11. The applicant shall follow and implement all specifications for erosion and sediment control specified in the contract documents. Adjustments to planned erosion and sediment control may be necessary to successfully control off-site movement of material not covered under this modification.
12. Temporary sediment traps shall be cleaned out and the settled sediments removed from the stream channel before removing the stream diversion system and returning the flow of the Mitchell to its natural channel. Settled sediments shall not be allowed to enter Mitchell due to water or runoff flows that may occur after construction is completed.
13. All earth areas adjacent to Mitchell Creek and its unnamed tributary which have been exposed or disturbed by this project are to be graded to a stable grade, seeded with a suitable erosion control seed mix which includes native grasses and forbs, and projected from erosion with straw mulch or equivalent within seven (7) days of the project completions

F. Timing:

1. This Order is valid until all compliance requirements in this document have been met.
2. Work below the ordinary high water mark of Mitchell Creek and its unnamed tributary shall only occur between July 1 and September 30 during any given year unless an extension to the work window is authorized in writing by the Washington Department of Fish and Wildlife.

G. Notification Conditions:

1. Notification shall be made to Ecology's Federal Permit Manager (Jo Sohneronne at 360 407-6926, Fax 360 407-6305, Email jsoh461@ecy.wa.gov, or mail PO Box 47775, Olympia, WA 98504-7775)

- at least seven (7) days prior to construction of the mitigation site, and
 - within thirty (30) days after the completion of the mitigation project.
2. Notification shall be made to Ecology's Water Quality Inspector (Janet Boyd at 360 407-0245, Fax 360 407-6305, Email jboy461@ecv.wa.gov, or mail PO Box 47775, Olympia, WA 98504-7775) at least seven (7) days prior to start of construction on the Pond 46 system or installation of any diversion ditches and culverts.

NOTE: These notifications shall include the applicant's name, project name, project location, the number of this Order, contact and contact's phone number.

3. The Applicant shall ensure that all appropriate Project Engineer and the Contractors at the project site and/or mitigation sites have read and understand relevant conditions of this Order and all permits, approvals, and documents referenced in this Order. The Applicant shall provide to Ecology a signed statement (see Attachment A for an example) from each Project Engineer and Contractor that they have read and understand the conditions of this Order and the above-referenced permits, plans, documents and approvals. These statements shall be provided to Ecology no less than seven (7) days before construction begins at the mitigation sites.

H. Emergency/Contingency Measures:

1. The applicant shall develop a spill prevention and containment plan for this project, and shall have spill cleanup materials available on site.
2. Any work that is out of compliance with the provisions of this Order, or conditions causing distressed or dying fish, or any discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, is prohibited. If these occur, the applicant shall immediately take the following actions:
 - a. Cease operations.
 - b. Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
 - c. In the event of finding distressed or dying fish, the applicant shall collect fish specimens and water samples in the affected area and, within the first hour of the event. These samples shall be held in refrigeration or on ice until the applicant is instructed by Ecology on what to do with them. Ecology may require analyses of these samples before allowing the work to resume.
 - d. In the event of a discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, containment and cleanup efforts shall begin immediately and be completed as soon as possible, taking precedence over normal work. Cleanup shall include proper disposal of any spilled material and used cleanup materials.

- e. Immediately notify Ecology's Southwest Regional Spill Response Office at 360 407-6300 and Department of Fish and Wildlife of the nature of the problem, any actions taken to correct the problem, and any proposed changes in operations to prevent further problems.
3. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters.
4. If at any time during work the proponent finds buried chemical containers, such as drums, or any unusual conditions indicating disposal of chemicals, the proponent shall immediately notify the Ecology's Southwest Regional Spill Response Office at 360 407-6300.

I. General Conditions:


1. This Order does not authorize direct, indirect, permanent, or temporary impacts to waters of the state or related aquatic resources, except as specifically provided for in conditions of this Order.
2. This Order does not exempt and is conditioned upon compliance with other statutes and codes administered by federal, state, and local agencies.
3. Ecology retains continuing jurisdiction to make modifications hereto through supplemental Order, if it appears necessary to further protect the public interest.
4. The Applicant shall construct and operate the project in a manner consistent with the project description contained in the applicants request for certification, or as otherwise approved by Ecology.
5. A TransAlta representative shall be on-site, or on-call and readily accessible to the site, at all times while construction activities are occurring that may affect the quality of ground and surface waters of the state, including all periods of construction activities.
6. The TransAlta representative shall have adequate authority to ensure proper implementation of the Erosion and Sediment Control Plan, as well as immediate corrective actions necessary because of changing field conditions. If the TransAlta representative issues a directive necessary to implement a portion of the Pollution Control Plan or to prevent pollution to the stream, all personnel on site, including any construction contractor and the contractor's employees, shall immediately comply with this directive.
7. The Applicant shall provide access to the project site and all mitigation sites upon request by Ecology or WDFW personnel for site inspections, monitoring, necessary data collection, or to ensure that conditions of this Order are being met.
8. Copies of this Order and all related permits, approvals, and documents shall be kept on

the project site and readily available for reference by the project managers, construction managers and foremen, other employees and contractors of the Applicant, and state agency personnel.

9. Any person who fails to comply with any provision of this Order shall be liable for a penalty of up to ten thousand dollars (\$10,000) per violation for each day of continuing noncompliance.

Any person aggrieved by this Order may obtain review thereof by appeal. The Applicant can appeal up to 30 days after receipt of the permit, and all others can appeal up to 30 days from the postmarked date of the permit. The appeal must be sent to the Washington Pollution Control Hearings Board, PO Box 40903, Olympia WA 98504-0903. Concurrently, a copy of the appeal must be sent to the Department of Ecology, Shorelands and Environmental Assistance Program, PO Box 47600, Olympia WA 98504-7600. These procedures are consistent with the provisions of Chapter 43.21B RCW and the rules and regulations adopted thereunder.

Dated 7/9/2004 at Olympia, Washington



Perry J Lund, Unit Supervisor
Southwest Regional Office
Shorelands and Environmental Assistance Program

TransAlta Centralia Mining LLC
Pond 46 System
Water Quality Certification

Statement of Understanding

I, _____, state that, as an agent or contractor at the TransAlta Pond 46 System project and /or mitigation site, I have read and understand the relevant conditions of Washington Department of Ecology Water Quality Certification – Order #1536 and the applicable permits and approvals referenced therein which pertain to certain Pond 46-related work for which I am responsible.

Signature

Date

Title

Company